

Introduced by Senators Perata, Alpert, and Romero
(Coauthors: Assembly Members Bates, Koretz, and Lieber)

February 20, 2004

An act to amend Sections 1575.5 and 100445 of, and to repeal and add Section 1575.9 of, the Health and Safety Code, and to amend Sections 14526, 14552, 14573, 14574, and 14574.1 of, and to add Sections 14552.1, 14552.2, and 14572.1 to, the Welfare and Institutions Code, relating to adult day health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1845, as introduced, Perata. Adult day health care.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging. Existing law establishes a license and renewal fee. Under existing law, this fee, among others, is required to be adjusted annually by a specified percentage.

This bill would repeal the license and renewal fee and delete the requirement that the fee be adjusted. The bill, commencing January 1, 2005, would establish a license application fee, and a prescribed license and Medi-Cal certification renewal fee, with the revenues collected to be used, upon appropriation by the Legislature, by the California Department of Aging to implement the preapplication process required under the bill, with the remaining revenues to be used by the State Department of Health Services and the California Department of Aging in direct proportion to the costs by each department associated with performing other services and activities relating to adult day health care centers.

Existing law provides that no license shall be issued or renewed for an adult day health center that is not approved as a Medi-Cal provider of adult day health services.

This bill would provide that this provision does not apply to an application for an adult day health center license received during a moratorium on the initial certification and enrollment in the Medi-Cal program of adult day health centers imposed in accordance with the bill.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.

This bill would impose, commencing on February 1, 2005, a 365-day moratorium on the initial certification and enrollment in the Medi-Cal program of adult day health care centers, with certain exceptions.

This bill would require the California Department of Aging, commencing 180 days after the effective date of the moratorium required by this bill, to establish an adult day health care preapplication process to be completed by an applicant prior to filing an application for initial licensure as a provider, and certification as a Medi-Cal provider, of adult day health care services.

The bill would revise the Adult Day Health Medi-Cal Law, including revising designated Medi-Cal certification standards, deleting the requirement that an adult day health care provider provide services only to those participants living within its service area, and deleting the requirement that the State Department of Health Services conduct reviews prior to approving renewal of Medi-Cal certification.

Existing law provides that denial, suspension, or termination of Medi-Cal certification is considered immediate grounds for denial, suspension, or revocation of an adult day health care center license.

This bill would provide that this provision does not apply to a denial of Medi-Cal certification made pursuant to a moratorium imposed in accordance with the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1575.5 of the Health and Safety Code
- 2 is amended to read:
- 3 1575.5. (a) Concurrently with the submission of any
- 4 application under Section 1575.2, the applicant shall apply to the



state department for eligibility certification as a provider of adult day health services reimbursable under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). No license shall be issued or renewed for an adult day health center ~~which~~ *that* is not approved as a Medi-Cal provider of adult day health services.

(b) This section shall not apply to an application received during a moratorium imposed in accordance with Section 14572.1 of the Welfare and Institutions Code. This section shall apply to an application for licensure as an adult day health care center and certification as a Medi-Cal provider of adult day health care center services received by the California Department of Aging prior to the effective date of, and subsequent to the final date of, the moratorium.

SEC. 2. Section 1575.9 of the Health and Safety Code is repealed.

~~1575.9. Each application for a new license or renewal submitted to the state department shall be accompanied by an annual fee of five hundred seventeen dollars (\$517). However, the director shall waive the fee or reduce the fee to thirty dollars (\$30) for a new or renewal license when the director determines that there is the expectation that not less than 50 percent of the participants during the period covered by the fee will be Medi-Cal beneficiaries or would be at risk of becoming Medi-Cal beneficiaries should institutional long-term care be required.~~

SEC. 3. Section 1575.9 is added to the Health and Safety Code, to read:

1575.9. (a) Commencing January 1, 2005, each application for a new license submitted to the department shall be accompanied by a fee of five thousand dollars (\$5,000).

(b) Commencing January 1, 2005, each renewal application for a license and certification as a Medi-Cal provider of adult day health care center services shall be accompanied by a fee calculated by multiplying the license capacity of the facility times twenty dollars (\$20).

(c) (1) The revenues collected pursuant to this section shall be deposited in the Adult Day Health Care Provider Fund, which is hereby established. Upon appropriation by the Legislature, these revenues shall be used by the California Department of Aging to implement the preapplication process required by Section 14552.1

1 of the Welfare and Institutions Code, by the department and the
2 California Department of Aging for increased assistance and
3 monitoring of facilities that are authorized by Section 14574.1 of
4 the Welfare and Institutions Code, and by the department to
5 implement other administrative licensing and certification
6 activities pursuant to this chapter. These revenues shall be
7 allocated first to the California Department of Aging to cover the
8 full cost of administering the preapplication process required by
9 Section 14552.1 of the Welfare and Institutions Code, second to
10 the California Department of Aging to implement Section 14574.1
11 of the Welfare and Institutions Code, and then any remaining
12 revenues shall be allocated to the department and to the California
13 Department of Aging in direct proportion to the costs of each of
14 these departments that are associated with performing the
15 additional activities required by this paragraph.

16 (2) Notwithstanding subdivisions (a) and (b), fees charged
17 pursuant to this section may not exceed the amount reasonably
18 necessary to cover the cost to the department and the California
19 Department of Aging of performing the activities and services
20 specified in paragraph (1).

21 (d) Failure to pay required fees, including the finding of
22 insufficient funds to cover bona fide business or personal checks
23 submitted for this purpose, shall constitute grounds for denial of
24 a license or forfeiture of a license. The fees shall be considered
25 delinquent after 30 days of the billing date.

26 (e) Fees submitted pursuant to this section are nonrefundable.

27 SEC. 4. Section 100445 of the Health and Safety Code is
28 amended to read:

29 100445. (a) The fees or charges required to accompany an
30 application for the issuance or renewal of any license pursuant to
31 Sections 1403,~~1575.9~~, 1729, and 1743.17 shall be adjusted
32 annually, commencing July 1, 1988, by the percentage change
33 printed in the Budget Act and determined by dividing the General
34 Fund appropriation to the Licensing and Certification Division in
35 the current state fiscal year by the General Fund appropriation to
36 the Licensing and Certification Division in the preceding state
37 fiscal year. Commencing July 1, 1988, the fees or charges subject
38 to adjustment pursuant to this subdivision shall be the fees or
39 charges that would have been payable in the prior calendar year
40 without regard to the provisions of subdivision (b).

(b) The fees or charges required to accompany an application for the issuance or renewal of any license pursuant to Sections 1729 and 1743.17 shall also be adjusted annually, commencing July 1, 1988, by a percentage determined by dividing the total amount of federal funds available for home health and private duty nursing agencies during the federal fiscal year ending on September 30 of the year immediately preceding the effective date of the change in fees, less federal funds available for home health and private duty nursing agencies for the federal fiscal year that began on October 1 of the year immediately preceding the effective date of the change in fees, by the total estimated revenue derived pursuant to Sections 1729 and 1743.17 for the fiscal year beginning July 1 of the year immediately preceding the effective date of the change in fees.

(c) The department shall by July 1 of each year publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 14526 of the Welfare and Institutions Code is amended to read:

14526. Participation in an adult day health care program shall require prior authorization by the department. The authorization request shall be initiated by the provider and shall include the results of the assessment screening conducted by the provider's multidisciplinary team and the resulting individualized plan of care. Participation shall begin upon application by the prospective participant or upon referral from community or health agencies, physician, hospital, family, or friends of a potential participant.

~~The adult day health care provider shall provide services only to those participants living within its service area, as determined by the department consistent with the county plan adopted pursuant to Section 1572.9 of the Health and Safety Code; provided, that, under special circumstances in which an adult day health care provider meets a special need or affinity of a particular individual residing outside the provider's service area, the provider may accept such individual as a participant, conditioned upon limiting reimbursable transportation costs to such costs which are incurred solely within the provider's service area.~~

SEC. 6. Section 14552 of the Welfare and Institutions Code is amended to read:

14552. In order to obtain certification as a provider of adult day health care under this chapter and Chapter 7 (commencing with Section 14000), the following standards shall be met:

(a) *The provider shall have met the preapplication requirements pursuant to Section 14552.1.*

(b) The provider shall have met all other requirements of licensure as an adult day health care center pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

~~(b)–~~

(c) The provider shall comply with requirements of this chapter regarding program and scope of services.

~~(c)–~~

(d) The provider shall have appropriate licensed personnel.

~~(d)–~~

(e) The provider shall employ ~~allied health and social~~ *required* personnel for furnishing of *required services pursuant to Section 14550* consistent with ~~good medical practice commonly accepted professional standards.~~

~~(e)–~~

(f) The provider shall afford to each participant all rights, including the right to be free from harm and abuse, identified in the rules and regulations adopted pursuant to Section 1580 of the Health and Safety Code.

~~(f)–~~

(g) A provider serving a substantial number of participants of a particular racial *or ethnic* group, or *participants* whose primary language is ~~other than~~ *not* English, shall employ staff ~~of that particular racial or~~ *who can meet the cultural and linguistic group at all times* ~~needs of the participant population.~~

~~(g)–~~

(h) A provider shall have organizational and administrative capacity to provide services under *the* provisions of this chapter.

~~(h) A provider or applicant shall submit for review and approval by the California Department of Aging a facility program plan for providing adult day health care services that meets the following requirements:~~

1 ~~(1) The facility program plan shall be developed, submitted,~~
2 ~~and approved prior to initial licensure and certification, prior to~~
3 ~~any change in the specialty or specific population to be served, or~~
4 ~~as required by the California Department of Aging.~~

5 ~~(2) The facility program plan shall include all of the following:~~

6 ~~(A) The number of participants to be served.~~

7 ~~(B) A profile of the participant population that addresses~~
8 ~~specific needs of the population, including, but not limited to, frail~~
9 ~~elderly or specialization in a particular disability.~~

10 ~~(C) A summary of the specific program elements, including~~
11 ~~those that specifically address the population served.~~

12 ~~(D) A summary of the specialized professional or program staff~~
13 ~~who will provide services specific to the specialty population~~
14 ~~served and their responsibilities.~~

15 ~~(E) An in-service training program plan for at least a six-month~~
16 ~~interval.~~

17 ~~(F) A sample of an individual plan of care developed by the~~
18 ~~multidisciplinary team and under the direction of the program~~
19 ~~director and a sample of a one-week schedule of daily services~~
20 ~~based on the individual plan of care.~~

21 ~~(G) A plan for any behavior modification program that is used~~
22 ~~with a specialty population such as developmentally or mentally~~
23 ~~disabled persons.~~

24 ~~(3) The provider or applicant shall be notified in writing of the~~
25 ~~approval of the facility program plan.~~

26 ~~(4) If the facility program plan is not approved, the provider or~~
27 ~~applicant shall be notified in writing of the components of the plan~~
28 ~~that need to be clarified or corrected. The provider or applicant~~
29 ~~may submit a revised plan to the California Department of Aging~~
30 ~~for reconsideration.~~

31 SEC. 7. Section 14552.1 is added to the Welfare and
32 Institutions Code, to read:

33 14552.1. (a) Commencing 180 days after the effective date of
34 the moratorium imposed pursuant to Section 14572.1, the
35 California Department of Aging shall establish an adult day health
36 care preapplication process that shall be completed by an applicant
37 prior to filing an application for initial licensure and for
38 certification as a Medi-Cal provider of adult day health care
39 services under this chapter and Chapter 7 (commencing with
40 Section 14000). The preapplication process shall consist of an

1 orientation program and a written proposal for the provision of
2 adult day health care services.

3 (b) (1) The preapplicant shall attend an eight-hour orientation
4 program provided by the California Department of Aging or by a
5 nonprofit provider organization approved by the California
6 Department of Aging pursuant to paragraph (3). The orientation
7 shall include, but not be limited to, the following content areas:

8 (A) The regulatory and statutory requirements for adult day
9 health care.

10 (B) Operational responsibility of the applicant and staff.

11 (C) Financial considerations for startup and ongoing operating
12 costs.

13 (D) The preapplication process and the licensing and
14 certification process.

15 (E) Obtaining data regarding demographics and determining
16 need for adult day health care services.

17 (2) The preapplicant shall be provided a preapplication
18 package at the orientation, upon request.

19 (3) To be approved by the California Department of Aging to
20 conduct the orientation training as described in paragraph (1), the
21 nonprofit provider organization shall comply with all of the
22 following requirements:

23 (A) Provide evidence that orientation instructors have at least
24 five years experience in either training adult day health care
25 providers or in the provision of adult day health care services.

26 (B) Submit a curriculum and list of instructors for review and
27 approval by the California Department of Aging.

28 (C) Maintain a record of all orientation attendees and provide
29 the California Department of Aging with the attendee information
30 within 15 working days or upon request.

31 (4) A preapplicant who is already licensed as an adult day
32 health care center shall not be required to attend an orientation if
33 the last orientation attended was within 12 months of the next
34 scheduled orientation.

35 (c) The preapplicant shall submit to the California Department
36 of Aging a proposal that includes, but is not limited to, all of the
37 following:

38 (1) A program plan as specified in Section 14552.2.

1 (2) Operational policies and procedures identified in the
2 regulations adopted pursuant to Section 1580 of the Health and
3 Safety Code.

4 (3) A marketing plan that includes, but is not limited to, all of
5 the following:

6 (A) Data that describes the population base for the identified
7 geographic area proposed to be served by the adult day health care
8 center, including, but not limited to, all of the following:

9 (i) The number of persons over the age of 65 years.

10 (ii) The number of persons over the age of 65 years who are
11 potential adult day health care users.

12 (iii) The number of Medi-Cal beneficiaries.

13 (iv) The number of adults with disabilities.

14 (v) The number of adults with disabilities who are potential
15 adult day health care users.

16 (vi) If a specialty population will be served, such as persons
17 with developmental disabilities, persons with mental disabilities,
18 or persons of a special racial or ethnic group, the number of
19 persons in this specialty population who are potential adult day
20 health care users.

21 (vii) The licensed capacity of adult day health care centers,
22 including programs for all-inclusive care for the elderly, within a
23 10-mile radius of the proposed facility.

24 (B) The center's plan for marketing its services to the target
25 population, including methods and marketing messages.

26 (4) A plan to coordinate with and utilize other services in the
27 home and community based continuum of care within the
28 identified geographic area.

29 (5) A proforma budget and monthly cashflow projection for 24
30 months.

31 (d) The preapplicant shall review the proposal with the
32 California Department of Aging. The California Department of
33 Aging shall notify the preapplicant within 30 days of receipt of the
34 proposal of a date, time, and place for the review. The review,
35 which may be done by telephone or in person at the department's
36 discretion, shall include, but not be limited to, a discussion of the
37 specific portions of the proposal that are incomplete.

38 (e) If, within 120 days of the review, the preapplicant has not
39 submitted a complete proposal, the preapplicant shall be notified
40 that the proposal is considered withdrawn and a new proposal is

1 required. A determination by the California Department of Aging
2 that the proposal has been withdrawn is not subject to appeal or
3 hearing pursuant to Sections 14123 and 14574.

4 (f) Upon notification by the California Department of Aging
5 that a preapplication process is complete, a preapplicant may
6 proceed to apply for licensure and certification as a Medi-Cal
7 provider of adult day health care center services pursuant to Article
8 3 (commencing with Section 1575.2) of Chapter 3.3 of Division
9 2 of the Health and Safety Code.

10 (g) This section shall be implemented only to the extent funds
11 are made available for the purposes of this section in the annual
12 Budget Act or another statute.

13 (h) Implementation of the adult day health care center
14 preapplication process required by this section, including the
15 approval process for an organization to provide training, does not
16 require adoption of regulations pursuant to the Administrative
17 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
18 Part 1 of Division 3 of Title 2 of the Government Code).

19 SEC. 8. Section 14552.2 is added to the Welfare and
20 Institutions Code, to read:

21 14552.2. (a) “Program plan,” as required under paragraph
22 (1) of subdivision (c) of Section 14552.1, means a written
23 description of the adult day health care center’s philosophy,
24 objectives, and processes for providing required services to the
25 participant populations.

26 (b) The program plan shall include any of the following
27 elements, as requested by the California Department of Aging, and
28 shall be submitted as required in Sections 14552.1 and 14574.1:

29 (1) The total number of participants the center proposes to
30 serve, or currently serves, daily.

31 (2) A profile of the participant population the center proposes
32 to serve, or currently serves, that includes a description of the
33 specific medical, social, and other needs of each population.

34 (3) A description of the specific program elements and services
35 that addresses the medical, social, and other needs of each
36 participant population that the center proposes to serve, or
37 currently serves, as specified in paragraph (2). “Program
38 elements” means the components of an adult day health care
39 program, as specified in Section 14550.



1 (4) A description of the specialized professional and program
2 staff that will provide, or currently provide, the adult day health
3 care center's program services, as specified in paragraph (3), and
4 that staff's responsibilities. The plan shall demonstrate that the
5 adult day health care center is organized and staffed to carry out
6 the requirements as specified in the regulations adopted pursuant
7 to Section 1580 of the Health and Safety Code.

8 (5) An in-service training plan for each center staff member to
9 commence within the first six months of employment. The
10 training plan shall address, at a minimum, the specific medical,
11 social, and other needs of each participant population the center
12 proposes to serve, as specified in paragraph (2).

13 (6) A sample individual plan of care for each specialty
14 population the adult day health care center proposes to serve, or
15 currently serves, and a sample of a one-week schedule of daily
16 program services for each sample individual plan of care. The
17 individual plan of care shall demonstrate the specific medical,
18 social, and other needs of each participant population the adult day
19 health center proposes to serve.

20 (7) A plan for a behavior modification program if such a
21 program will be used as a basic intervention for meeting the needs
22 of a special population, such as persons with developmental
23 disabilities or persons with mental disabilities.

24 (c) This section shall be implemented only to the extent funds
25 are made available for the purposes of this section in the annual
26 Budget Act or another statute.

27 (d) The implementation of the program plan requirements does
28 not require adoption of regulations pursuant to the Administrative
29 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
30 Part 1 of Division 3 of Title 2 of the Government Code).

31 SEC. 9. Section 14572.1 is added to the Welfare and
32 Institutions Code, to read:

33 14572.1. (a) Commencing February 1, 2005, a statewide
34 moratorium on the initial certification and enrollment in the
35 Medi-Cal program of adult day health care centers shall be
36 imposed for 365 days, subject to the following exceptions:

37 (1) During the last 180 days of the moratorium period, the
38 California Department of Aging may make exceptions to the
39 moratorium for adult day health centers that are located in

1 underserved areas, or that serve underserved populations, as
2 determined by the California Department of Aging.

3 (2) Programs of All-Inclusive Care for the Elderly (PACE)
4 established pursuant to Chapter 8.75 (commencing with Section
5 14590) and federally qualified health centers as defined in Section
6 1396d(1)(2)(B) of Title 42 of the United States Code shall be
7 exempted for the entire moratorium period.

8 (b) The moratorium shall not apply to applications for
9 licensure and certification as a Medi-Cal provider of adult day
10 health care center services submitted to the California Department
11 of Aging prior to the effective date of the moratorium.

12 (c) The moratorium does not prohibit the relocation or change
13 of ownership of adult day health care centers licensed and certified
14 prior to the effective date of this section.

15 (d) The implementation of the moratorium does not require
16 further legislative action or adoption of regulations pursuant to the
17 Administrative Procedure Act (Chapter 3.5 (commencing with
18 Section 11340) of Part 1 of Division 3 of the Government Code).

19 SEC. 10. Section 14573 of the Welfare and Institutions Code
20 is amended to read:

21 14573. (a) Initial Medi-Cal certification for adult day health
22 care providers shall expire 12 months from the date of issuance.
23 The director shall specify any date he or she determines is
24 reasonably necessary because of the record of the applicant and to
25 carry out the purposes of this chapter, but not more than 24 months
26 from the date of issuance, when renewal of the certification shall
27 expire. The certification may be extended for ~~a period~~ *periods* of
28 not more than 60 days if the department determines it to be
29 necessary.

30 (b) Before certification renewal the provider shall submit with
31 the application ~~therefor~~ *for renewal* a report according to
32 department specifications that includes an analysis of income and
33 expenditures, continued demonstrated community need, services,
34 participant statistics and outcome, and adherence to policies and
35 procedures.

36 (c) Prior to approving renewal of Medi-Cal certification, the
37 ~~department and the~~ California Department of Aging shall conduct
38 a financial review and onsite medical and management reviews
39 ~~with the licensing review~~. The reviews shall be conducted by a
40 team of persons with appropriate technical skills. The

management review shall be performed by the entity responsible for directing and coordinating the program, as specified in the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code.

(d) Where the director determines that the public interests would be served thereby, a public hearing may be held on any renewal application subject to this section. The findings of the departmental program and licensing reviews and the provider's annual evaluation report shall be presented at the hearing.

SEC. 11. Section 14574 of the Welfare and Institutions Code is amended to read:

14574. (a) The director shall terminate the Medi-Cal certification of any adult day health care provider at any time if he or she finds the provider is not in compliance with standards prescribed by this chapter or Chapter 7 (commencing with Section 14000) or regulations adopted pursuant to these chapters. The director shall give reasonable notice of his or her intention to terminate the certification to the provider and participants in the center. The notice shall state the effective date of, and the reason for, the termination.

(b) The denial, suspension, or termination of certification shall be considered immediate grounds for denial, suspension, or revocation of the license.

(c) Proceedings to deny an application for certification or licensure, terminate or suspend certification, or revoke or suspend licensure shall be consolidated whenever possible.

(d) The California Department of Aging and the department shall coordinate an action or actions to the extent appropriate to ensure consistency and uniformity.

(e) The provider shall have the right to appeal the department's decision made pursuant to Section 14123.

(f) Subdivision (b) does not apply to a denial of Medi-Cal certification made pursuant to a moratorium imposed in accordance with Section 14572.1.

SEC. 12. Section 14574.1 of the Welfare and Institutions Code is amended to read:

14574.1. (a) Every adult day health care center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director, unless otherwise specified in the interagency agreement entered into

1 pursuant to Section 1572 of the Health and Safety Code.
2 Inspections shall be conducted prior to the expiration of
3 certification, but at least every two years, and as often as necessary
4 to ensure the quality of care being provided. As resources permit,
5 an inspection may be conducted prior to, as well as within, the first
6 90 days of operation.

7 (b) If, as a result of the inspection, the department or the
8 California Department of Aging, as specified in the interagency
9 agreement, determines that the adult day health care center has
10 serious deficiencies that pose a risk to the health and safety of the
11 participants, the department or the California Department of
12 Aging, as specified in the interagency agreement, may
13 immediately take any of the following actions, including, but not
14 limited to:

15 (1) Require a plan of correction, *including as requested, a*
16 *program plan pursuant to Section 14552.2.*

17 (2) Limit participant enrollment.

18 (3) Prohibit new participant enrollment.

19 (c) The provider shall have the right to dispute an action taken
20 under paragraphs (2) and (3) of subdivision (b). The department
21 or the California Department of Aging, as specified in the
22 interagency agreement, shall accept, consider, and resolve
23 disputes filed pursuant to this subdivision in a timely manner. The
24 dispute resolution process shall be determined by the California
25 Department of Aging in consultation with the department.

26 (d) The director shall ensure that public records accurately
27 reflect the current status of any potential actions including the
28 resolution of disputes.

